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EXAMINER

GILLIGAN, CHRISTOPHER L

ART UNIT PAPER NUMBER

3626

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/578,664

Applicant(s)

REEVES, WILLIAM

Examiner

Luke Gilligan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 89-108 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 89-108 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/8/05 has been entered.

Response to Amendment

2. In the amendment filed 9/8/05, the following has occurred: claims 89, 91-93, 95, 98-100, 102, and 105-108 have been amended. Now, claims 89-108 are presented for examination.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 107-108 are rejected under 35 U.S.C. 102(e) as being anticipated by DeLaHuerger, U.S. Patent No. 6,408,330.

5. As per claim 107, DeLaHuerger teaches a computer system for inputting, storing, organizing, authenticating, retrieving medical records, clinical data, and patient data, the system comprising: means for converting original hardcopy medical records, clinical data, and patient data to digital records using a digitizing process (see column 44, lines 23-32); means for

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simultaneously assigning and embedding a first physician biometric characteristic into each said digital record during said digitizing process (see column 44, lines 23-32); means for storing said digital records therein (see column 14, lines 15-27); means for authenticating said digital records including comparing a second physician biometric characteristic obtained during a login process to said first physician biometric characteristic (see column 14, lines 15-27).

6. Claim 108 contains substantially similar process limitations to system claim 107 and, as such, is rejected for similar reasons as given above.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 89-106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross, Jr. et al., U.S. Patent No. 5,823,948 in view of DeLaHuerger, U.S. Patent No. 6,408,330.

9. As per claim 89, Ross teaches a computer system for inputting, storing, organizing, retrieving, and authenticating, medical records, clinical data, and patient data, the system comprising: means for converting medical records, clinical data, and patient data to digital records (see column 1, lines 12-33), means for assigning a unique patient identifier to each said digital record (see column 7, lines 19-31), means for assigning a first digital physician signature into each said digital record (see column 8, lines 43-44), memory for storing said digital records therein (see column 4, line 52 – column 5, line 13), means for storing said digital records in said memory and retrieving said digital records from said memory (see column 4, line 52 – column 5, line 13), and means for outputting said digital records (see column 5, lines 10-13). Ross does

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not explicitly teach converting original hardcopy records to digital records using a digitizing process and simultaneously assigning and embedding a digital signature. Ross also does not explicitly teach a physician signature database having a plurality of physician names and corresponding second digital physician signatures stored therein, means for authenticating said digital records including means for comparing a first digital physician signature retrieved from a selected one of said digital records with a corresponding one of said second digital physician signatures retrieved from said physician signature database.

9. However, DeLaHuerga teaches means for converting original hardcopy medical records, clinical data, and patient data to digital records using a digitizing process (see column 44, lines 23-32); means for simultaneously assigning and embedding a first physician biometric characteristic into each said digital record during said digitizing process (see column 44, lines 23-32). In addition, DeLaHuerga teaches a physician signature database having a plurality of physician names and corresponding second digital physician signatures stored therein, means for authenticating said digital records including means for comparing a first digital physician signature retrieved from a selected one of said digital records with a corresponding one of said second digital physician signatures retrieved from said physician signature database (see column 13, lines 4-16). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate these features into the system of Ross. One of ordinary skill in the art would have been motivated to incorporate these features for the purpose of enhancing the security of sensitive information within the system of Ross while utilizing the already integrated electronic physician signature feature of Ross.

10. As per claim 90, Ross in view of DeLaHuerga teach the system of claim 89 as described above. Ross further teaches said stored digital records are accessible using at least one of said

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patient identifier, said first physician signature, a biometric characteristic of a user, and a system password (see column 7, lines 24-31).

11. As per claim 91, Ross in view of DeLaHueraga teach the system of claim 89 as described above. Ross further teaches said digital records are accessible via at least one of a computer network, a telephone, a voice recognition system, a data access system (see Figure 1).

12. As per claim 92, Ross in view of DeLaHueraga teach the system of claim 89 as described above. Ross further teaches said digital records are stored in a format including at least one discrete data field, wherein said data records are retrievable based on at least one of the age of said clinical data, the severity of said patient's medical condition, and the medical relevance of said clinical data in treating said patient (see column 6, line 65 – column 7, line 5).

13. As per claim 93, Ross in view of DeLaHueraga teach the system of claim 89 as described above. Ross further teaches said digital records can be updated on a 24 hour basis via one of a computer network, a telephone system, a data access system (see Figure 1).

14. As per claim 94, Ross in view of DeLaHueraga teach the system of claim 89 as described above. Ross does not explicitly teach that said stored digital records are encrypted. However, DeLaHueraga teaches the use of encryption for securing medical data (see column 22, lines 6-11). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Ross. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of enhancing the security of sensitive information within the system of Ross.

15. As per claim 95, Ross in view of DeLaHueraga teach the system of claim 89 as described above. Ross does not explicitly teach that a patient can wear or carry an identification means corresponding to at least one of said computer system and said patient identifier, said identification means for indicating that said patient has a medical condition and said digital

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records corresponding to said patient are accessible via said computer system. However, DeLaHuerga teaches a smart bracelet that a patient can wear corresponding to at least one of a computer system and a patient identifier, identification means for indicating that said patient has a medical condition and digital records corresponding to said patient are accessible via said computer system (see column 20, line 64 – column 21, line 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Ross. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of enhancing identification of patients within the hospital environment of Ross.

16. As per claim 96, Ross in view of DeLaHuerga teach the system of claim 95 as described above. Ross further teaches said digital records are accessible via at least one of a computer network, a telephone, a voice recognition system, a data access system (see Figure 1).

17. As per claim 97, Ross in view of DeLaHuerga teach the system of claim 89 as described above. Ross further teaches a plurality of computers or workstations coupled to said memory for simultaneous access, processing or transmitting of said digital records (see Figure 1).

18. Claims 98-106 contain substantially similar process limitations to system claims 89-97 and, as such, are rejected for similar reasons as given above.

Response to Arguments

19. In the remarks filed 9/14/05, Applicant argues in substance that neither Ross nor DeLaHuerga teaches the recited claim limitations. Applicant also argues that there is no reasons nor motivation to combine Ross and DeLaHuerga.

20. It is respectfully submitted that Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the

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claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections. Furthermore, it is respectfully submitted that the above detailed rejections provide citations to portions of the references in which the claimed features are taught. In addition, it is respectfully submitted that the Examiner has provided statements of motivation for why one of ordinary skill in the art would have combined the teachings of Ross and DeLaHuerga as asserted above.

Conclusion

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke Gilligan whose telephone number is (571) 272-6770. The examiner can normally be reached on Monday-Friday 8am-5:30pm.

22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

23. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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C. Luke Gilligan
Patent Examiner
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